

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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| In the Matter of |) | |
| |) | |
| Entravision Holdings, LLC |) | CSR-7765-M |
| v. |) | |
| Charter Communications Entertainment I, |) | |
| LLC |) | |
| |) | |
| Channel Position Complaint |) | |

MEMORANDUM OPINION AND ORDER

Adopted: May 29, 2008

Released: May 30, 2008

By the Senior Deputy Chief, Policy Division, Media Bureau:

I. INTRODUCTION

1. Entravision Holdings, LLC, licensee of television broadcast station WUVN (Ch. 18), Hartford, Connecticut (“WUVN”), filed the above-captioned complaint against Charter Communications Entertainment I, LLC (“Charter”), for its failure to carry WUVN on its over-the-air channel on its cable systems serving the communities of Ashford, Brooklyn, Canterbury, Chaplin, Columbia, Coventry, Eastford, Hampton, Lebanon, Mansfield, Pomfret, Scotland, Thompson, Willington, Windham, and Woodstock, Connecticut. No opposition to this petition has been received.¹ For the reasons discussed below, we grant WUVN’s request.

II. DISCUSSION

2. Pursuant to Section 614 of the Communications Act and implementing rules adopted by the Commission in *Implementation of the Cable Television Consumer Protection and Competition Act of 1992, Broadcast Signal Carriage Issues (“Must Carry Order”)*, commercial television broadcast stations are entitled to assert mandatory carriage rights on cable systems located within the station’s market.² A station’s market for this purpose is its “designated market area,” or DMA, as defined by Nielsen Media Research.³

¹We note that WUVN submitted a follow-up letter after Charter’s failure to oppose this petition, urging the Commission to grant its request.

²8 FCC Rcd 2965, 2976-2977 (1993).

³Section 614(h)(1)(C) of the Communications Act, as amended by the Telecommunications Act of 1996, provides that a station’s market shall be determined by the Commission by regulation or order using, where available, commercial publications which delineate television markets based on viewing patterns. *See* 47 U.S.C. § (continued....)

3. In support of its complaint, WUVN states that, although it has must carry status on Charter's cable systems, Charter is not carrying WUVN on its over-the-air analog channel 18. WUVN states that, by letter dated January 8, 2008, it formally demanded carriage on the above-listed Charter cable systems on its over-the-air channel, pursuant to Section 76.61(a)(1) of the Commission's rules.⁴ WUVN points out that Sections 76.57(a) and (c) of the Commission's rules provides that a station is generally entitled to carriage "on the cable system channel number on which the commercial television station is broadcast over the air . . . unless the station and the cable operator mutually agree upon another channel."⁵ WUVN states that it has not agreed to any alternate channel position on Charter's cable systems.⁶ Moreover, WUVN argues, Charter's failure to respond to this demand and its unilateral decision to broadcast WUVN on a channel other than its over-the-air channel has no basis in Commission policy.⁷ WUVN maintains that Charter must either grant WUVN carriage on its over-the-air analog channel or negotiate with Entravision to arrive at a "mutually agreed upon" channel position.⁸ WUVN asserts that Charter's carriage of its station on a channel other than its over-the-air channel has resulted in a loss of viewers for the station, thereby inflicting harm upon both the station and the viewing public. WUVN therefore requests that the Commission require Charter to either carry its signal on its over-the-air analog channel of 18, or to otherwise negotiate with the station for a mutually acceptable alternative.

4. We agree with WUVN and will grant its complaint. We find that the unopposed representations made by WUVN demonstrate that it is a local commercial television station qualified for carriage on Charter's cable systems herein. WUVN has correctly stated that, pursuant to Section 76.57 of the Commission's rules, cable operators are required to carry stations qualified for carriage under the must carry requirements on their over-the-air channel, unless both the station and the cable operator have mutually agreed to an acceptable alternative.⁹ In this instance, Charter has not complied with this requirement. Moreover, Charter has not only failed to respond to WUVN's initial channel positioning demand, but has also not defended its actions in this proceeding. In view of the foregoing, we will order Charter to either reposition WUVN to Channel 18, its over-the-air channel, or negotiate with WUVN for a mutually acceptable alternative channel.

(...continued from previous page)

534(h)(1)(C). Section 76.55(e) of the Commission's rules requires that a commercial broadcast television station's market be defined by Nielsen Media Research's DMAs. *See* 47 C.F.R. § 76.55(e).

⁴Complaint at Exhibit B; *see also* 47 C.F.R. § 76.61(a)(1).

⁵Complaint at 1-2; *see also* 47 C.F.R. § 76.57(a) and (c).

⁶Complaint at 2.

⁷*Id.*

⁸*Id.*

⁹*See* 47 C.F.R. § 76.57.

III. ORDERING CLAUSES

5. Accordingly, **IT IS ORDERED** that the petition filed by Entravision Holdings, LLC **IS GRANTED** pursuant to Section 614(d)(3) of the Communications Act of 1934, as amended, 47 U.S.C. § 534. Charter Communications Entertainment I, LLC **IS ORDERED** to reposition WUVN to Channel 18, the station's over-the-air channel, on its cable systems serving the communities of Ashford, Brooklyn, Canterbury, Chaplin, Columbia, Coventry, Eastford, Hampton, Lebanon, Mansfield, Pomfret, Scotland, Thompson, Willington, Windham, and Woodstock, Connecticut, sixty (60) days from the date of this order, unless it has agreed with WUVN by such date to a mutually acceptable alternative channel position.

6. This action is taken pursuant to authority delegated by Section 0.283 of the Commission's rules.¹⁰

FEDERAL COMMUNICATIONS COMMISSION

Steven A. Broeckaert
Senior Deputy Chief, Policy Division
Media Bureau

¹⁰47 C.F.R. § 0.283.